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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,918	12/14/2004	Joachim Wilhelm Hellmig	NL 020529	8895
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EXAMINER				
DANIELSEN, NATHAN ANDREW				
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2627				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,918

Applicant(s)

HELLMIG, JOACHIM WILHELM

Examiner

Nathan Danielsen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-12 and 14-32 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1, 2, 4-12, 16-18, 21, 32 and 34 is/are allowed.
6) ☒ Claim(s) 14, 19 and 22 is/are rejected.
7) ☒ Claim(s) 15, 20 and 23 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Claims 1, 2, 4-12, and 14-32 are pending. Claims 15-32 were added in applicant's amendment filed 25 October 2006. Claims 3 and 13 were canceled in applicant's amendment filed 08 April 2008.

Claim Objections

2. Claims 1, 2, 4, 5, 7, 11, 14, 16, 25, 26, and 29 are objected to because each of these claims contains various forms of the words "record" and "write" such as the limitations "a method of recording marks" and "each mark being written", as found in claim 1. Appropriate correction, such as changing the various forms of "write" to the equivalent form of "record" or vice versa, is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14, 19, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Shiratori (US Patent 5,751,669).

Regarding claims 14, 19, and 22, Shiratori discloses a method of (and associated recording devices for) recording marks on a record carrier, the method comprising the acts of:

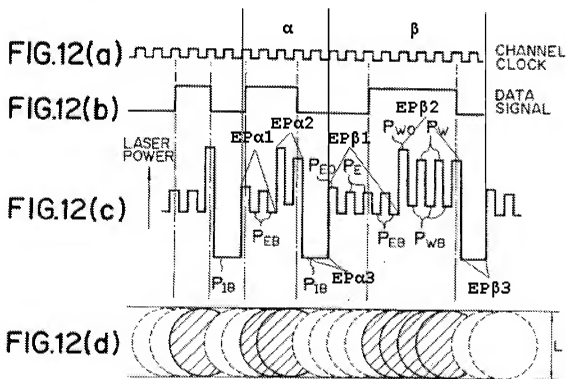
irradiating the record carrier with a radiation beam, each mark being written by a sequence of pulses (P_{WO} , P_{WB} , and P_W in figure 12c and col. 11, lines 20-56), and

erasing recorded marks by irradiating the record carrier with an erase radiation beam (col. 11, lines 20-56, col. 1, line 62 through col. 2, line 12, and figure 12; where, in overwriting previously recorded data on the recording medium, the previously recorded data is effectively erased from the recording medium since the overwriting operation simultaneously erases the previously recorded data while recording new data in the same

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location where the previously recorded data was erased) comprising three erase periods (erase period one consists of pulses having power levels P_{EO} , P_E , and P_{EB} ; erase period two consists of pulses having power levels P_{WO} , P_W , and P_{WB} ; and erase period three consists of a pulse having power level P_{IB} ; where each of beams α and β in figure 12, as shown below, consists of each of the aforementioned three erase periods),

wherein said erase radiation beam has a first erase power level for a first erase period (erase period one ($EP_{\alpha 1}$ and $EP_{\beta 1}$) consists of pulses having power levels P_{EO} , P_E , and P_{EB} , the average level of which is the first erase power level) followed by a second erase power level higher than said first erase power level for a second erase period (erase period two ($EP_{\alpha 2}$ and $EP_{\beta 2}$) consists of pulses having power levels P_{WO} , P_W , and P_{WB} , the average level of which is the second erase power level) followed by a third erase power level lower than said first erase power level for a third erase period (erase period three ($EP_{\alpha 3}$ and $EP_{\beta 3}$) consists of a pulse having power level P_{IB} , the level of which is the third erase power level).



Response to Arguments

5. Applicant's arguments, see pages 21-23, filed 16 October 2008, with respect to claims 1, 11, 25, 27, 29, and 31, have been fully considered and are persuasive. The rejections of these claims, as found in the Office action mailed 16 July 2008, have been withdrawn.
6. Applicant's arguments filed 16 October 2008, with respect to claims 14, 19, and 22, have been fully considered but they are not persuasive.
7. Regarding applicant's argument that Shiratori fails to teach or suggest the claimed erase radiation beam, the examiner disagrees. Shiratori discloses in col. 1, line 62 through col. 2, line 12 and col. 11, lines 20-56 where the recording/erasing waveform of figure 12c is used for "overwriting" previously recorded data. As explained in the explanation of the preceding rejection of claims 14, 19, and 22, the very act of "overwriting" previously recorded data inherently includes the erasure of the previously recorded data in that the previously recorded data no longer exists once the "overwriting" operation is complete. Additionally, Webster's Revised Unabridged Dictionary (© 1996, 1998 MICRA, Inc., as found at <http://dictionary.reference.com/browse/erase> on 09 April 2009) defines "erase" to mean "to obliterate", and further defines "obliterate" (found at <http://dictionary.reference.com/browse/obliterate> on 09 April 2009) to mean "to render imperceptible". Therefore, when Shiratori discloses where the purpose of the apparatus is to "perform an overwriting at a high recording density" and to "obtain a good reproduction signal", one of ordinary skill in the art at the time the invention was made would have known that, in order for the newly recorded data to be reproducible, the previously recorded data would have had to be rendered imperceptible, which is accomplished by the overwriting operation including the simultaneous erasing of the previously recorded data and recording of new data. Therefore, the preceding rejection based on Shiratori is still deemed proper and is hereby maintained.

Allowable Subject Matter

8. Claims 2, 7, 12, 16, 21, 24, 26, and 28 are allowed for the reasons found in the Office action mailed 16 July 2008.
9. Claims 1, 4-6, 8-11, 17, 18, 25, 27, and 29-32 are allowed for the following reasons.
10. Claims 15, 20, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable, for the following reasons, if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
11. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, either alone or in combination, fails to teach or fairly suggest:
 - a. In claims 1 and 11, the specific combination of limitations including where "said erase radiation beam between two successive sequences of pulses for writing marks consists of three erase periods, and wherein said erase radiation beam has a first erase power level for a first erase period followed by a second erase power level higher than said first erase power level for a second erase period followed by a third erase power level lower than said second erase power level for a third erase period" (as found in claim 1 and similarly found in claim 11);
 - b. In claims 25, 27, 29, and 31, the specific combination of limitations including where "the recorded marks represent data including a high period and a low period, and wherein a start of the erase radiation beam substantially coincides with a beginning of the low period" in combination with where "the erase radiation beam has a first erase power level for a first erase period followed by a second erase power level higher than said first erase power level for a second erase period followed by a third erase power level lower than said first erase power level for a third erase period" (as found in claim 25 and similarly found in claims 27, 29, and 31); and
 - c. In claims 15, 20, and 23, where "the marks represent data including a high period and a low period, and wherein a start of the erase radiation beam substantially coincides with a beginning of the low period" (as found in claim 15 and similarly found in claims 20 and 23) in combination with where "said erase radiation beam has a first erase power level for a first erase period followed by a second erase power level higher than said first erase power level for a

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second erase period followed by a third erase power level lower than said first erase power level for a third erase period" (as found in claim 14 and similarly found in claims 19 and 22).

12. Claims 4-6, 8-10, 17, 18, 30, and 32 are allowed based on their dependency on an allowed claim.

Closing Remarks/Comments

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Danielsen whose telephone number is (571)272-4248. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:00 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A.L. Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrea L Wellington/
Supervisory Patent Examiner, Art Unit
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Nathan Danielsen
04/09/2009